

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

2006 APR 27 A 9:54

JOE MITCHELL DORSEY,  
Plaintiff,

V.

ANTHONY CLARK,  
Defendants.

2:05-CV-1239-MEF

## PLAINTIFF RESPONSE TO DEFENDANTS SPECIAL REPORT AND ANSWER

PLAINTIFF JOE MITCHELL DORSEY SUBMITS HIS RESPONSE  
TO THE DEFENDANTS SPECIAL REPORT AND ANSWER TO THE  
COURT AS FOLLOWS:

### I. INTRODUCTION

THE PLAINTIFF FILED HIS COMPLAINT ON DECEMBER 30, 2005.  
THE COMPLAINT ALLEGES, PRESUMABLY, VIOLATIONS OF HIS EIGHTH  
AMENDMENT RIGHTS. ON JANUARY 13, 2006, THIS COURT ORDERED  
ALL DEFENDANTS TO SUBMIT A SPECIAL REPORT CONCERNING THE  
FACTUAL ALLEGATIONS MADE BY THE PLAINTIFF IN HIS COMPLAINT.

### II. PLAINTIFF ALLEGATIONS

THE PLAINTIFF APPEARS TO BE ALLEGING THAT NURSE CAIN FAILED TO  
PROVIDE ADEQUATE OR APPROPRIATE MEDICAL ATTENTION IN VIOLATION  
OF THE PLAINTIFF'S EIGHTH AMENDMENT RIGHT TO BE FREE FROM  
CRUEL AND UNUSUAL PUNISHMENT. SPECIFICALLY, THE PLAINTIFF

ALLEGES THAT NURSE CAIN DENIED THE PLAINTIFF MEDICAL ATTENTION UPON HIS RETURN TO THE COVINGTON COUNTY JAIL FROM ANDALUSIA REGIONAL HOSPITAL, AFTER BEING TREATED AT ARH FOR COMPLAINTS OF PAIN ARISING OUT OF A FALL DOWN SOME STAIRS.

III NURSE CAIN'S ANSWER TO PLAINTIFF ALLEGATIONS, SHE MADE STATEMENTS THAT PLAINTIFF ALLEGATIONS MADE AGAINST HER BY PLAINTIFF, UNTRUE AND COMPLETELY WITHOUT BASIS IN LAW OR FACT SHE STATED AND SHE STATED THAT SHE ACTED, OR CAUSED ANYONE TO ACT, IN SUCH A MANNER AS TO DEPRIVE THE PLAINTIFF OF ANY RIGHT TO WHICH HE WAS ENTITLED, SHE STATED THAT PLAINTIFF FAILS TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED, NURSE CAIN RAISES THE DEFENSES OF ELEVENTH AMENDMENT IMMUNITY, QUALIFIED IMMUNITY, SHE STATED THAT PLAINTIFF FAILURE TO COMPLY WITH THE PRISON LITIGATION REFORM ACT AND ADDITIONAL DEFENSES PRESENTED BELOW,

PLAINTIFF WILL EXHAUST AVAILABLE ADMINISTRATIVE REMEDIES AS REQUIRED BY 42 U.S.C. 1997e(A) OF THE PRISON LITIGATION REFORM ACT BY ENCLOSE COPIES OF UNANSWER GRIEVANCES IT PROOF THAT THERE IS DENIED OF MEDICAL CARE BY NURSE CAIN'S AND BY DR. MCWHORTER, AND PLAINTIFF CLAIMS ARE NOT BARRED BY THE PRISON LITIGATION REFORM ACT HE HAS EXHAUST ADMINISTRATIVE REMEDIES.

IV. PLAINTIFF IS STILL BEING DENIED MEDICAL ATTENTION AND THE RIGHT TREATMENT FOR PAINS, IBUPROFEN IS NOT THE RIGHT TREATMENT FOR BACK PAINS, PLAINTIFF STILL SUFFERING FROM THE FALL-

ING DOWN STAIRS, AND THE REAL REASON WHY PLAINTIFF IS TREATED DELIBERATELY INDIFFERENT TO MEDICAL NEEDS PLAINTIFF WILL DEMONSTRATE, PLAINTIFF WAS BOOKED INTO THE COVINGTON COUNTY JAIL TO BE HOUSING FOR THE MUNICIPAL COURT OF CITY OF ANDALUSIA ALABAMA, AND IT WAS ON DECEMBER 6, 2005. ON DECEMBER 24 2005 PLAINTIFF WAS COMING DOWN THE STAIRS IN (A) BLOCK, HE WAS HOLDING ON A BROKE RAIL AS HE WAS COMING DOWN THE BROKEN RAIL GAVE THE PLAINTIFF MADE A HARD FALL DOWN THE STAIRS, PLAINTIFF ENCLOSE SIGNATURE OF THE BROKEN RAIL AND THE FALL DOWN THE STAIRS AS WITNESS PLAINTIFF STILL IN GREAT PAINS HE NEED EMERGENCY MEDICAL ATTENTION AT THE EARLIEST POSSIBLE TIME. WHEREFORE THE PLAINTIFF HAS PRESENTED EVIDENCE THAT NURSE CAIN WAS DELIBERATELY INDIFFERENT TO A SERIOUS MEDICAL CONDITION AMOUNTS TO AN EIGHTH AMENDMENT VIOLATION, AND BECAUSE PLAINTIFF IS HOUSE FOR THE MUNICIPAL COURT ANDALUSIA WHICH NURSE CAIN STATED, PLAINTIFF REFUSED TO TAKE IBUPROFEN BECAUSE IT WOULD GIVE HIM STOMACH PAIN, WHICH IT WOULD NEVER HELP HIS BACK PAIN, DR MCWHORTER ASIGN THE WRONG MEDICATION FOR BACK PAIN, PLAINTIFF CONTINUE TO SUFFING PAINS AND HE NEEDS MEDICAL ATTENTION PAIN ARISING OUT OF A FALL DOWN SOME STAIRS, IT AMOUNTS TO CONDUCT THAT SHOCKS THE CONSCIENCE AND BARBAROUS ACT, PLAINTIFF ACUTE PHYSICAL CONDITION URGENT NEED FOR MEDICAL CARE, DR MCWHORTER AND NURSE CAIN, REFUSAL TO PROVIDE IT, AND TANGIBLE RESIDUAL INJURY. WHICH PLAINTIFF HAS SET FORTH SPECIFIC FACTS DEMONSTRATING THERE IS A GENUINE ISSUE OF MATERIAL FACT FOR TRIAL IN THIS CASE. PLAINTIFF HAS SHOW EVIDENCE TO THE CONTRARY, HE IS ENTITLED TO SUMMARY JUDGMENT AS A MATTER OF LAW.

V. PLAINTIFF REQUEST THAT THIS COURT WILL ORDER A EMERGENCY LEAVE TO GO TO A PROPER HOSPITAL, TO FOUND OUT WHAT INJURY IS CAUSEING HIS PAIN FROM THE FALL DOWN STAIRS, SINCE HE IS HOUSES FOR MUNICIPAL COURT OF ANDALUSIA, PLAINTIFF NEEDS THIS ORDER AT THE EARLIEST POSSIBLE TIME. SEE EXHIBIT (A) PLAINTIFF COMPLY TO EXHAUST ADMINISTRATIVE REMEDIES, AND SEE EXHIBIT (B) SIGNATURE OF WITNESS TO THE BROKEN RAIL, AND THE FALL DOWN THE STAIRS.

VI. REQUEST THAT THE PLAINTIFF RESPONSE TO DEFENDANTS SPECIAL REPORT BE TREATED AS MOTION FOR SUMMARY JUDGMENT.

A. SUMMARY JUDGMENT STANDARD,  
PURSUANT TO RULE 56 OF THE FEDERAL RULES OF CIVIL PROCEDURE, JOE MITCHELL DORSEY MOVES THIS COURT TO ENTER SUMMARY JUDGMENT IN HIS FAVOR, BECAUSE AS IS MORE PARTICULARLY SHOWN ABOVE, THERE IS GENUINE ISSUE AS TO MATERIAL FACT AND HE IS ENTITLED TO JUDGMENT AS A MATTER OF LAW.

ON A MOTION FOR SUMMARY JUDGMENT, THE COURT SHOULD VIEW THE EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE PLAINTIFF BECAUSE THE DEFENDANTS DR WCLWHORTER, AND NURSE CAIN DID INTENT REFUSAL TO PROVIDE EMERGENCY MEDICAL ATTENTION AND THE RIGHT PRESCRIPTION FOR BACK PAINS, IN VIOLATION OF PLAINTIFF EIGHTH AMENDMENTS.

B. MOTION FOR SUMMARY JUDGMENT

JOE MITCHELL DORSEY RESPECTFULLY REQUESTS THAT THIS HONORABLE COURT TREAT THIS RESPONSE AS A MOTION FOR SUMMARY JUDGMENT AND GRANT AN EMERGENCY LEAVE UNTO HIM THE SAME.

4-17-06

DATE

Joe Mitchell Dorsey  
SIGNATURE OF PLAINTIFF

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT ON THIS THE 4 DAY OF April, 2006  
I MAIL A COPY OF THIS FOREGOING TO THE DEFENDANT'S  
ATTORNEYS BY UNITED STATES MAIL, POSTAGE. See Docket

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